

Appl. No. 10/069,177
Amdt. Dated April 6, 2004
Reply to Office Action of October 6, 2003

REMARKS

The Office Action mailed on October 6, 2003 is acknowledged. Presently, claims 1-18 are pending and all stand rejected. Applicants request re-examination of the above-mentioned application in view of the above amendments and remarks which follow.

Response to Rejections under 35 U.S.C. § 112

Claims 8-11

Claims 8-11 stand rejected under 35 U.S.C. § 112 because each of the claims recites the limitation of "the use of the arrangement" while also depending from an apparatus claim. A claim is indefinite where it recites a use without any active steps delimiting how the use is practiced.

Applicants have amended claims 8-11 in order to properly claim the "arrangement" recited in the preceding apparatus claims. Thus, claims 8-11 now read as apparatus claims. Applicants believe the amendments set forth above overcome the rejections under 35 U.S.C. § 112.

Claim 2

Claim 2 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and claim the subject matter regarded as the invention. Claim 2 recited the claim limitation "the size and the number of the filter pores" without providing antecedent basis for this limitation. Applicants have amended this claim to correct this deficiency.

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Response to Rejections under 35 U.S.C. § 102

Claim 1

Claim 1 stands rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 5,597,460 granted to Reynolds. The Examiner asserts that Reynolds discloses an arrangement enabling a liquid to flow evenly around a surface of a sample. The Examiner asserts that the arrangement comprises: a flow chamber (Fig. 1, numeral 10); a sample located in said flow chamber and rotatable about an axis (col. 5, lines 1-15); inflow and outflow pipes each exiting opposite ends of the flow chamber from inflow and outflow containers (Fig. 1, numerals 44 and 30); an inflow tube terminating in the inflow container (Fig. 1, numeral 38); an outflow tube beginning in the outflow container (Fig. 1, numeral 38); a flow generator (Fig. 1, numeral 34); and a filter arranged in the inflow and or outflow containers or pipes (Fig. 1, numeral 36); wherein the inflow and outflow pipes extend in opposite ends of the flow chamber (Fig. 1, numeral 30). Applicants respectfully disagree with this characterization.

Reynolds does not disclose, in the least, an outflow container, an outflow tube, and an inflow tube. Thus, Reynolds does not anticipate claim 1 as written.

In rejecting claim 1 as anticipated by Reynolds, the Examiner asserts that Reynolds discloses an inflow container 38 and an outflow container 38. Claim 1 does not claim a single container functioning as an inflow container and an outflow container. Rather, with respect to the embodiment of the invention depicted in Figures 1 and 2 of the present application, claim 1 claims an inflow container (indicated by numeral 9) and an outflow container (indicated by number 10). These are clearly two separate containers distinguishable from that disclosed in Reynolds.

Reynolds also fails to disclose the inflow and outflow tubes recited in claim 1. When explaining the rejection of claim 1, the Examiner indicates that Reynolds teaches inflow and outflow pipes indicated by numerals 44 and 30, respectively but fails to disclose reference

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numerals indicating the teaching of inflow and outflow tubes. A review of Reynolds reveals that the reference does not include inflow and outflow tubes. Rather, it appears the Examiner equates the inflow and outflow tubes to inflow and outflow pipes. In the present application, claim 1 claims both inflow and outflow tubes (indicated by numerals 11 and 12 in Figures 1 and 2, respectively) and inflow and outflow pipes (indicated by numerals 7 and 8, respectively). Thus, in the present invention, the inflow and outflow pipes are distinct from the inflow and outflow tubes. This feature is not present in Reynolds, which does not disclose inflow and outflow tubes. Accordingly, Reynolds does not anticipate claim 1.

Claim 12

Claim 12 also stands rejected under 35 U.S.C. § 102(b) as being anticipated by Reynolds. The Examiner contends that Reynolds teaches an arrangement enabling a liquid to flow around a sample surface, including: a flow chamber (Fig. 1, numeral 10); a rotary drive mechanism with a sample mounting surface to receive a sample (col. 5, lines 1-15); an inflow manifold and an outflow manifold positioned on opposite ends of the flow chamber (Fig. 1, numerals 44 and 30); and each manifold having a flow tubes extending into the flow chamber (Fig. 1, numeral 38) with the manifolds and the flow tubes defining a laminar flow pattern through the flow chamber (col. 6, lines 36-46). The Applicants respectfully disagree with this characterization.

In Figure 1 of Reynolds, the Examiner characterizes the component indicated by numeral 10 as a flow chamber. In addition, the Examiner characterizes the components indicated by numerals 44 and 30 as inflow and outflow manifolds, respectively. This configuration, however, does not satisfy the limitation of claim 12 requiring that the manifolds be positioned on opposite ends of the flow chamber. As depicted in Figure 1, the manifolds 44, 30 extend from the same sides of flow chamber 10.

The Examiner does assert that Reynolds teaches manifolds positioned at opposite sides of the flow chamber. However, in making this assertion, the Examiner mistakenly considers

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the component indicated by numeral 38 in Figure 1 of Reynolds as the flow chamber. This component cannot be the flow chamber recited in claim 12 of the present application because claim 12 requires that the sample be located at least in part in the flow chamber, and the Examiner has already asserted that component 10 satisfies this limitation. Accordingly, Reynolds does not teach inflow and outflow manifolds positioned on opposite ends of the flow chamber. Thus, Reynolds does not anticipate claim 12 of the present application.

Claim 12 of the present application further requires that the manifolds each include flow tubes extending into the flow chamber. The Examiner fails to indicate components which may be considered flow tubes when making this rejection. As can be seen in Figure 1, the components the Examiner asserts are manifolds (components 30, 44) extend directly into the flow chamber 10. Thus, Reynolds does not include flow tubes extending from the manifolds into the flow chamber. Accordingly, Reynolds does not anticipate claim 12 of the present application. Therefore, applicants believe that claim 12 is in condition for allowance.

Conclusion

The Examiner rejected claims 2 and 8-11 under 35 U.S.C. § 112, second paragraph, for a variety of reasons. Applicant has amended these claims so that each complies with the requirements of 35 U.S.C. § 112. The Examiner also rejected independent claims 1 and 12 under 35 U.S.C. § 102(b), as anticipated by Reynolds. As explained in the comments above, Applicants believe that claims 1 and 12 are allowable over the disclosure of Reynolds. Further, since all other pending claims ultimately depend from claims 1 and 12, applicants believe all claims pending the present application are in condition for allowance.

For all of the foregoing comments, applicants believe that the current application is in condition for allowance, and respectfully request early passage thereof. If necessary to affect a timely response, please consider this paper a request for an extension of time, and charge any shortages in fees, or apply any overpayment credits, to Baker & Daniels' Deposit Account No. 02-0387 (72262.90022). However, please do not include the payment of issue fees.

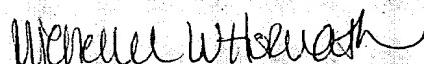
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I hereby certify that this correspondence is being deposited with the U.S. Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on
<u>April 6, 2004</u>
Date

Michelle Horvath